THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

Writ Petition No.8237 of 2003
And
Contempt Case No.481 of 2005

Date: 10.12.2007

Between:

Challa Venkatanarayana.

....Petitioner

And

The District Forest Officer and others.

....Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

Writ Petition No.8237 of 2003
And
Contempt Case No.481 of 2005

COMMON ORDER:

The petitioner was granted mining lease to quarry road metal in an extent of 1.619 hectares in Survey No.139 of Munagapadu Village, G.Konduru Mandal, Krishna District, vide proceedings, dated 28.09.1998, by the Assistant Director of Mines and Geology, Krishna District, for a period of ten years. Alleging that the officials of the Forest Department are interfering with the mining activity, the petitioner filed O.S.No.677 of 2002 in the Court of I Additional Junior Civil Judge, Vijayawada. He also filed I.A.No.275 of 2002 under Order 39 Rules 1 and 2 C.P.C. The trial Court granted an order of temporary injunction on 08.04.2002. C.M.A.No.812 of 2002 filed before the learned Principal Senior Civil Judge, Vijayawada by the Forest Department was dismissed on 20.03.2003. This Writ petition is filed for a writ of Mandamus, to declare the action of the Forest Range Officer, Vijayawada, in preventing the petitioner from

carrying on the quarry operations as illegal, arbitrary and to direct him to honour the order of temporary injunction granted by the Court of I Additional Junior Civil Judge, Vijayawada.

This Court granted interim order on 01.05.2003, directing that the respondents shall not interfere with the mining activity of the petitioner, as long as the same is undertaken in the land, which is described in the suit schedule in O.S.No.677 of 2002. C.C.No.481 of 2005 is filed alleging that the respondents therein are interfering with the mining activity of the petitioner, despite the order of temporary injunction granted by the trial Court as well as the interim order of this Court, dated 01.05.2003.

Learned counsel for the petitioner submits that with a view to resolve the boundary dispute, the petitioner filed I.A.No.960 of 2005 in the trial Court, with a prayer to appoint an Advocate-Commissioner, to get the land surveyed; and a report together with sketch has since been filed by the Commissioner appointed by the trial Court. He further submits that the respondents are totally disregarding the orders passed by various Courts.

The learned Government Pleader for Forests, on the other hand, submits that the so-called survey was conducted by the Commissioner, without participation of the officials of the Forest Department and under the guise of the lease, the petitioner is trespassing and encroaching

into the forest land. Initially, the trial Court granted temporary injunction, obviously, permitting the petitioner to carry on the mining operations in the area granted to it. The interference persisted. While the respondents do not have any right to interfere with the mining activity of the petitioner, in any revenue land, the petitioner cannot enter or trespass into the forest land.

There is a serious dispute as to the identity of the land. Such a dispute can be resolved, only by conducting joint survey with the participation of the officials of the Revenue and Forest Departments. For this purpose, the Joint Collector would be better suited. The report submitted by the Advocate-Commissioner appointed in I.A.No.960 of 2005 would not be of much use, since it lacks authenticity. Further, a comparison of the same with the sketch furnished to the petitioner, while granting lease, discloses that there are several variations.

For the foregoing reasons, the writ petition is disposed of, directing that it shall be open to the petitioner to approach the Joint Collector, Krishna District, with a prayer to arrange joint survey of the area, as regards which the lease was granted to him; and as and when such a representation is made, the Joint Collector shall issue notices or intimations to the officials of the Forest and Revenue Departments and get surveyed, through the

Department of Survey and Land Records, within a period of two (2) months. It shall be the obligation of the petitioner to meet the expenditure, that is necessary for the same. The officials of the Forest Department shall abide by the outcome of such joint survey and till such time, the petitioner shall not enter any forest land.

Having regard to the fact that there is serious dispute as to the very identity of the land, it cannot be said that there is any willful and deliberate contempt on the part of the respondents. The Contempt Case is, therefore, closed. There shall be no order as to costs.

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10.12.2007

JSU